

70D-2-401. Qualification of manufactured home or mobile home as improvement to real property -- Requirements -- Removal from property.

(1) Except as provided in this section, for purposes of this chapter, a manufactured home or mobile home is considered personal property.

(2) For purposes of this chapter, if the requirements of this section are met, a manufactured home or mobile home is:

- (a) considered to be an improvement to real property; and
- (b) considered as real property.

(3) A manufactured home or mobile home is considered to be an improvement to real property if:

(a) the manufactured home or mobile home is permanently affixed to real property;

(b) the person seeking to have the manufactured home or mobile home considered to be an improvement to real property:

(i) owns the manufactured home or mobile home;

(ii) (A) owns the real property to which the manufactured home or mobile home is permanently affixed; or

(B) leases the real property to which the manufactured home or mobile home is permanently affixed and the real property is financed in accordance with Subsection (4); and

(iii) meets the requirements of:

(A) Subsections (5) and (6); or

(B) Subsection (8); and

(c) (i) in accordance with Subsection (7), the following are recorded by the county recorder:

(A) the affidavit of affixture described in Subsection (7); and

(B) the receipt of surrender of ownership documents described in Subsection (7); or

(ii) the affidavit of affixture described in Subsection (8) is recorded by the county recorder in accordance with Subsection (8).

(4) For purposes of Subsection (3)(b)(ii)(B), a manufactured home or mobile home shall be financed in accordance with the guidelines established by:

(a) the Federal Home Loan Mortgage Corporation;

(b) the Federal National Mortgage Association;

(c) the United States Department of Agriculture; or

(d) another entity that requires as part of the entity's financing program restrictions:

(i) on:

(A) ownership; and

(B) actions affecting title and possession; and

(ii) if the restrictions described in Subsection (4)(d)(i) are similar to restrictions imposed by one or more of the entities described in Subsections (4)(a) through (c).

(5) (a) An owner of a manufactured home or mobile home seeking to have the manufactured home or mobile home considered to be an improvement to real property and considered real property shall complete an affidavit of affixture.

(b) An affidavit of affixture described in Subsection (5)(a) shall contain:

- (i) the vehicle identification numbers of the manufactured home or mobile home;
- (ii) the legal description of the real property to which the manufactured home or mobile home is permanently affixed;

- (iii) a statement certified by the assessor of the county in which the manufactured home or mobile home is located that the owner of the manufactured home or mobile home:

- (A) is not required to pay personal property tax in this state on the manufactured home or mobile home; or

- (B) if the manufactured home or mobile home is subject to personal property tax in this state, has paid all current and prior year personal property taxes assessed on the manufactured home or mobile home;

- (iv) a description of any security interests in the manufactured home or mobile home; and

- (v) a receipt of surrender of ownership documents issued by the Motor Vehicle Division of the State Tax Commission in accordance with Subsection (6).

(6) (a) The Motor Vehicle Division of the State Tax Commission shall issue a receipt of surrender of ownership documents under Subsection (5)(b)(v) if an owner described in Subsection (5) surrenders to the Motor Vehicle Division the:

- (i) manufacturer's original certificate of origin; or
- (ii) title to the manufactured home or mobile home.

(b) After issuing the receipt of surrender of ownership documents in Subsection (6)(a), the Motor Vehicle Division shall maintain a permanent record of:

- (i) the receipt of surrender of ownership documents; and
- (ii) the certificate or title described in Subsection (6)(a)(ii).

(7) (a) An owner shall present to the county recorder:

- (i) the affidavit of affixture described in Subsection (5); and
- (ii) the receipt of surrender of ownership documents described in Subsection (6).

(b) A county recorder who receives the documents described in Subsection

(7)(a) shall record the documents.

(c) An owner of property described in Subsection (5) shall provide a copy of the recorded affidavit of affixture to:

- (i) the Motor Vehicle Division of the State Tax Commission; and
- (ii) the assessor of the county in which the manufactured home or mobile home is located.

(8) (a) If an owner cannot comply with Subsections (5), (6), and (7) because the certificate of title for the manufactured home or mobile home is lost or destroyed and a duplicate title cannot be obtained, the owner of the manufactured home or mobile home seeking to have the manufactured home or mobile home considered to be an improvement to real property and considered real property shall complete an affidavit of affixture meeting the requirements of Subsection (8)(b).

(b) An affidavit of affixture described in Subsection (8)(a) shall contain the following from the owner:

- (i) the vehicle identification number of the manufactured home or mobile home;
- (ii) the legal description of the real property to which the manufactured home or mobile home is permanently affixed;

- (iii) a statement that the manufactured home or mobile home is permanently

affixed to the real property;

(iv) a statement that the manufactured home or mobile home is not registered with nor being assessed a fee in lieu of taxes by the Motor Vehicle Division of the State Tax Commission;

(v) a statement that the manufactured home or mobile home is being taxed as an improvement to real estate by the county assessor as permitted under Section 59-2-1503;

(vi) a statement that the certificate of title described in Subsection (6)(a)(ii) has been lost or destroyed and the owner is unable to secure a duplicate title; and

(vii) a statement that the manufacturer's identification number or numbers are included in the deed or loan document recorded with the county recorder.

(c) The affidavit of affixture described in Subsection (8)(b) may be substantially in the following form:

"AFFIDAVIT OF AFFIXTURE

I, [Affiant's Name], being first duly sworn, do hereby depose and say:

1. I am a resident of [County], State of [State], and I have personal knowledge of the facts contained in this affidavit and I am making this affidavit to comply with Utah Code Ann. Section 70D-2-401.

2. I own a fee simple interest in the following described property ("Real Property") located at [City or Town], [County], State of Utah, more particularly described as: [legal description].

3. I own a [manufactured home or mobile home] ("the Home") described by the manufacturer's identification number(s): [VIN or other manufacturer's identifying number].

4. The Home is permanently affixed to the Real Property.

5. The Home is not registered with the Utah Motor Vehicles Division.

6. The Home is taxed as an improvement to real estate by the [County] County Assessor as permitted under Utah Code Ann. Section 59-2-1503.

7. The Certificate of Title for the Home has been lost or destroyed and I am unable to secure a duplicate title.

8. The manufacturer's identification number(s) are included in the deed that is being recorded concurrently with this affidavit.

DATED this ____ day of _____, 20__.

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____.

Notary Public

My Commission Expires:

Residing at: _____
_____ "

(d) A county recorder who receives an affidavit of affixture described in Subsection (8)(b) shall record the affidavit of affixture.

(9) A lien on the manufactured home or mobile home that is considered to be an improvement to real property shall be perfected in the manner provided for the perfection of a lien on real property.

(10) If a manufactured home or mobile home owner separates the manufactured home or mobile home from the real property, the owner may acquire a new title by submitting to the Motor Vehicle Division of the State Tax Commission:

(a) a recorded affidavit that the manufactured home or mobile home is removed from the real property; and

(b) an application for a new title.

(11) The determination of whether a manufactured home or mobile home is considered real property or personal property under this section may not be considered in determining whether the manufactured home or mobile home is real property or personal property for purposes of taxation under Title 59, Chapter 2, Property Tax Act.

(12) This section does not apply to a modular home.

Amended by Chapter 266, 2013 General Session

Amended by Chapter 399, 2013 General Session